S.B.CIVIL WRIT PETITION NO.3379/2006

M/s Rajasthan Spinning and Weaving Mills Ltd.
v.
Sumer Singh Rathore and another

Date of Order :: 7th December, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Ravi Bhansali, for the petitioner.
Mr. D.K.Parihar, for the respondent No.1.

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By this petition for writ the employer petitioner has given challenge to the award dated 1.12.2004 passed by Labour Court, Bhilwara and its publication by appropriate government under a notification dated 22.7.2002.

The contention of counsel for the petitioner to challenge the award impugned is that the Labour Court failed to appreciate that the respondent No.1 is not a workman being Supervisor and also that the respondent workman as a matter of fact was not inclined to serve the employer and, therefore, he raised the dispute after a lapse of about four years from the date of alleged termination from service.

A reply to the writ petition has been filed on behalf of the respondent workman stating therein

that though the respondent No.1 was designated as Blowing Assistant but he was not discharging any supervisory duties and, therefore, the Labour Court rightly considered him a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947 (hereinafter referred to as “the Act of 1947”). It is also stated that the respondent No.1 from the date of his termination was approaching to the employer to permit him to join the duties and as such the allegation that he was not inclined to serve the employer is false. It is also stated that the Labour Court on basis of available evidence on record gave a specific finding that the workman since 29.3.1998 was making all best efforts to join duties but the employer never permitted him to join the duties.

Heard counsel for the parties.

From perusal of the award impugned it is apparent that the Labour Court on basis of evidence available on record reached at a specific conclusion that the duties of the respondent No.1 were not of supervisory nature and, therefore, held him a workman. The Labour Court also reached at the conclusion that no evidence is available on record on basis of which it can be said that the respondent No.1 was discharging the duties of supervisory nature. It is asserted by counsel for the petitioner that the respondent No.1 was admittedly getting salary of more

than Rs.1600/- and, therefore, in view of the fact that he was designated as Blowing Assistant, he is nothing but a supervisor. Counsel for the petitioner to substantiate the contention has also placed reliance upon the statements of the workman. I am of the considered opinion that merely on the count that designation of the respondent No.1 is Blowing Assistant and he is getting salary above Rs.1600/-, it cannot be said that he was not a workman. The statements of the respondent No.1 have been taken into consideration by the Labour Court and by considering the same a finding is given by the Labour Court and that does not require interference of this Court under Article 226 of the Constitution of India.

The Labour Court in quite unambiguous terms also reached at the conclusion that after 29.3.1998 the workman on various occasions approached the employer for permitting him to join the duties but of no consequence. A specific finding is given by the Labour Court to the effect that the respondent No.1 was making all best efforts to resume duties which clearly establishes that the employer terminated the respondent No.1 from service and it is wrong to suggest that he was not inclined to work with the employer.

I do not find any error in the award impugned, that may warrant interference of this Court

under Articles 226 and 227 of the Constitution of India.

Hence, this petition for writ is dismissed with no order to costs.

(GOVIND MATHUR),J.

kkm/ps.